

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 39**

January 13, 2021

**SUMMARY OF BILL:** Requires a law enforcement agency to pick up sexual assault evidence collection and hold kits within 48 hours of notification. Requires law enforcement agencies to store a hold kit until the statute of limitations for 10 years. Reduces the time in which law enforcement is required to submit sexual assault evidence collection and hold kits to the Tennessee Bureau of Investigation (TBI) or a similarly qualified laboratory.

Prohibits the use of sexual assault forensic evidence to be used to prosecute sexual assault victims for drug related misdemeanor offenses.

Expands the role of crime victim advocates and victim-witness coordinators.

Requires the TBI to create a tracking system, as well as a written pamphlet explaining how to access and use the tracking system. Requires, by July 1, 2022, any law enforcement agency, the state crime lab, and any other similar qualified laboratory that receives, maintains, stores, or preserves sexual assault evidence collection kits or hold kits to participate in the electronic tracking system and to provide the victim with the written pamphlet. Requires a law enforcement agency to enter the sexual assault evidence collection kit or hold kit into the tracking system within ten days of receipt. Requires the law enforcement agency to notify the victim of a databank match, if any, and provide the victim with a copy of the complete forensic analysis report of the victim's sexual assault evidence collection kit, unless disclosure of the information would impede or compromise the investigation. Requires the law enforcement agency to inform a victim at least 60 days prior before destruction or disposal of evidence.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures - \$1,600/FY21-22 and Subsequent Years**

Assumptions:

- Pursuant to Tenn. Code Ann. § 39-13-519(b), a victim of a sexually oriented crime is entitled to a forensic medical examination without charge to the victim. Upon the conclusion of the forensic examination, the resulting sexual assault evidence collection kit or hold kit shall be released to a law enforcement agency by a healthcare provider for storage or transmission.
- Requiring a health care provider to notify the applicable law enforcement agency that a sexual assault evidence collection kit or hold kit is ready for release within 24 hours of

collection will not significantly impact operations and can be accomplished with existing resources.

- Requiring the law enforcement agency to pick up this kit within 48 hours of notification will not significantly impact operations and can be accomplished with existing local resources.
- Currently, a hold kit with only an identification number attached to it, is required to be stored for a minimum of three years or until the victim makes a police report, whichever event occurs first. Requiring law enforcement agencies to store these kits for 10 years or until the victim makes a police report can be accommodated with existing storage.
- It can be reasonably assumed that reducing the time that law enforcement has to submit a sexual assault evidence collection kit or a hold kit to the TBI or a similarly qualified laboratory, from 60 to 30 days of taking possession of such kit, can be accomplished with existing personnel and resources.
- It is estimated that there are currently not enough prosecutions of sexual assault victims for drug related offenses as a result of sexual assault forensic evidence to result in a decrease in state or local expenditures under this legislation.
- Pursuant to Tenn. Code Ann. § 8-7-206, each judicial district is required to have a victim-witness coordinator.
- This legislation grants victims of sexually oriented crimes the right to consult with a crime assistance program or a victim-witness coordinator at any stage of the criminal proceeding, if practical, and if the presence of the crime victim advocate, victim-witness coordinator, or support person does not cause any unnecessary delay in the investigation or prosecution of the case. This will not have a significant fiscal impact on state or local government.
- The Portland Police Bureau (Oregon) developed the Sexual Assault Management System (SAMS) Track Victim Portal, which is an online portal where survivors of sexual assaults can track the progress and status of their Sexual Assault Forensic Evidence (SAFE) kits. This was in response to the 2018 State of Oregon House Bill 4049, which requires law enforcement to give survivors anonymous access to the current status and past progress of their sexual assault kit.
- The SAMS Track Victim Portal was developed in 2018 by the Portland Police Bureau's IT Department in collaboration with the Bureau's Sex Crimes Unit and was made possible and funded by the Sexual Assault Kit Initiative grant.
- According to the representatives of the SAMS Track, it is confirmed that this system is available at no cost for the tracking software or support of the software through 2022. After 2022, the federal grant supporting SAMS Track will expire. At that time additional federal grant funds may be supplied, the control and management of SAMS Track may be given to the nonprofit organization, or each user may be responsible for continuing support.
- In November 2017, the City of Memphis entered into a license agreement with the City of Portland for the software and support of the SAMS program. According to the contract, Memphis carried, “no financial obligation”.
- According the Department of Health’s 2018 Sexual Assault Report, there is an annual average of 6,145 sexual assault victims reported over five calendar years.

- Assuming TBI will need to print at least 6,200 pamphlets a year, there will be an increase in expenditures to the TBI of \$1,612 (6,200 pamphlets x \$0.26 cost of production) in FY21-22 and subsequent years.
- The TBI can distribute the pamphlets utilizing existing resources.
- Law enforcement agencies can notify the victim of a DNA databank match, intention to destroy or dispose of evidence, and provide the victim with a copy of the forensic analysis report without an increase in state or local expenditures.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Bojan Savic". The signature is written in a cursive, flowing style.

Bojan Savic, Interim Executive Director

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